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ABSTRACT

Drawing from a review of the literature, this paper addresses a series of questions related to the issue of whether state agencies, such as state boards of regents, commissions of higher education, or boards of education, should have the sole legal and official power to determine which postsecondary educational institutions can operate legally within a state and/or to determine the legality of recognition of academic degrees within the state regardless of the location of the degree-granting institution. Answers to six questions are presented and discussed: (1) What are the main subordinate academic or education policy issues raised by the major policy issue posed above? (2) What is the legal framework for academic policy in California, is it typical of other states, and is it likely to change within the next 5 years? (3) With the Marin Community College District and California as specific points of reference, what special educational and non-educational interests are likely to engage in political action either to change or preserve the current policy framework? (4) How does the current or predictable status of the economics of American postsecondary education affect the state's role in regard to the previous question; (5) Assuming that the state's role in determining policy in these areas were diminished, what consequences in postsecondary educational finance would result? (6) What conclusions can be drawn? For each question, relevant information derived from the literature review is presented first and then analyzed from a professional perspective. (LAL)

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AN ILLUSTRATION OF THE INTERACTION OF TRENDS IN THE POLITICS, LAW, ECONOMICS, AND FINANCING OF AMERICAN POSTSECONDARY EDUCATION

THE POLITICS, LAW, AND ECONOMICS OF HIGHER EDUCATION

by

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Marin Community College District

A PAPER PRESENTED TO NOVA UNIVERSITY IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF DOCTOR OF EDUCATION

NOVA UNIVERSITY

DECEMBER, 1983

Background

The purpose of this paper is to present and discuss answers to questions raised by a current major policy issue in American post-secondary education which illustrates the interaction of trends in the politics, law, economics, and financing of the enterprise. The policy issue is whether or not agencies at the state level such as a state board of regents, a commission or board of higher education, a state board of education, etc., should have the sole legal and official power (a) to determine what postsecondary educational institution can operate legally within a state and/or (b) to determine the legality of recognition of academic degrees in the state regardless of the location of the institution granting the degree.

Answers to six questions will be presented and discussed, using a two-part format for each of the first five answers. The first part will present relevant information drawn from current literature on the question. The second part will present the professional reply of the investigator. The last answer will present the professional conclusions of the investigator about the major policy issue.

Subordinate Academic or Education Policy Issues

The question is: what are the main subordinate academic or education policy issues raised by the major policy issue posed above? Discuss their significance to American postsecondary education.

Relevant Information

The question will be explored in two parts: those issues which

relate to who should have the legal and official power to determine what institutions can operate legally within a state, and those issues which relate to who should determine the legality of recognition of academic degrees in the state regardless of the location of the institution granting the degree.

Legal Operation. When a state agency has the sole legal and official power to determine what postsecondary educational institutions can operate legally within a state, one of the subordinate academic or education policy issues raised is institutional diversity.

> Although control and coordinating boards may maintain some rational relationships among various sectors of postsecondary education, there is also the danger that strong state direction may erode institutional diversity by creating standardized rules and regulations and developing a pattern of decisions which will stimulate conformity and uniformity among institutions of all types. The imposition of an additional interface between institutions and the state bureaucracy might well inhibit local efforts to develop unique response patterns to students and the larger society. Bureaucracies, on or off campus, usually respond sluggishly, if at all, to innovation: At the very least, the change process is slowed down; at the very worst, change becomes virtually impossible (2:32).

Another subordinate academic or education policy issue raised is access. Whenever administrators plan to establish new institutions, or to operate branch campuses or off-campus programs in other states, some form of state approval is likely to be required (6:366) By denying approval, a state agency can deny geographic access for students to a particular institution, branch campus, or off-campus program.

Legality of Academic Degrees. When a state agency has the sole legal and official power to determine the legality of recognition of academic degrees in the state regardless of the location of the institution granting the degree, one of the main academic or education policy issues raised is autonomy.

> The question of autonomy is obviously an extremely complex one. Arguments at the local or institution level maintain that decisions in the best interests of students, and the whole educational process, can best be made by those closest to the scene and to the daily process. Who, indeed, is best qualified to make decisions about the structure of curriculum, course content, and instructional methodology? (2:28)

In the broadest sense, one might view decisions regarding the legality of recognition of academic degrees as an issue of curriculum which might best be made at the institution level.

According to Blocker, et al, "one of the great current questions in postsecondary education is the proper balance between campus control and autonomy on the one hand and centralized governance and coordination on the other." (2:120) The trend toward increased centralization is significant to American postsecondary education because it poses threats to institutional diversity, geographic access, and autonomy. When power is increased at the state level regarding academic and education policy issues, it is decreased at the institutional and local community levels.

Professional Reply

It is the investigator's view that the proper role of the state is different for state-funded postsecondary education than it is for independent or proprietary postsecondary education. When an institution of postsecondary education which expects to be funded by the state wishes to operate legally within that state, it is the investigator's view that the state has a right to determine if it may do so. When an independent or proprietary institution of postsecondary education wishes to operate legally within that state, it would appear that the state's role should be limited to the protection of prospective students. That is, the state should limit its involvement to assuring that prospective students have access to truthful information about the institution.

In like fashion, when an institution of postsecondary education which is funded by the state wishes to offer a certain level of legally recognized academic degree, it is the investigator's view that the state has a right to determine if it may do so. In order to maximize use of available state funds for postsecondary education and minimize competition among institutions of postsecondary education, a state may wish to limit the offering of a doctoral degree to the state university, and the offering of an associate degree to the community college.

However, if one includes the legal recognition of particular majors at particular academic-degree levels, then it is the view of the investigator that academic majors are matters of curriculum and, as such, are best resolved by "those closest to the scene." (2:28)

When an independent or proprietary institution of postsecondary education wishes to offer a certain level of legally recognized academic degree, or a particular major, it is the investigator's view that the state should limit its involvement to making available truthful information about the institution. This information would include whether or not the institution is regionally accredited, i.e., that its offerings meet certain standards.

Legal Framework for Academic Policy in California

The question is: what is the legal framework for academic policy related to the stated issue in California? How typical is that framework in comparison with other states in the nation? Is it likely to be changed within 3-5 years? If so, how and why?

Relevant Information

The question will be explored in two parts: the legal framework surrounding who has the legal and official power to determine what institutions can operate legally within California, and the legal framework surrounding who determines the legality of recognition of academic degrees in California regardless of the location of the institution granting the degree.

Legal Operation. In California, the legal framework is different for public postsecondary education than it is for private postsecondary education. According to the California Education Code (4), the Legislature and the Governor decide the need for and location of new institutions and campuses of public higher education. However, they may not make a decision until they receive a recommendation from the California Postsecondary Education Commission (CPEC).

In the case of private postsecondary education, the Superintendent of Public Instruction (SPI)--an elected official--grants approval and authority to operate a private postsecondary educational institution in the state (4:5110).

Public postsecondary educational systems vary in type and organization from state to state.

> Such systems may be established by the state constitution, by legislative acts, or by a combination of the two, and may encompass a variety of institutions from the large state university to smaller state colleges or teachers' colleges, to community colleges, technical schools, and vocational schools (6:367).

The regulatory authority of states is broader over their own public institutions than over institutions of private postsecondary education. Nevertheless, states do have extensive regulatory authority over private postsecondary education under their police powers (6:372). According to

Kaplin, states tend to exercise authority over private postsecondary education in two ways: (1) through incorporation or chartering, a function performed by all states; or (2) through licensure (6:373). Licensure is a more substantial form of regulation than chartering because it is imposed as a condition to offering education within the state or to granting degrees or using a collegiate name.

According to Blocker, et al, "a new institution, whether it be publicly or privately controlled, in order to operate needs official authorization of one kind or another from the state in which it is to be headquartered." (2:100)

> Although the specific requirements vary considerably from state to state, each has a specified procedure for a privately controlled college or other type of postsecondary education institution to operate legally or for a new publicly controlled institution to be established. In some states, the requirement to establish new privately-controlled institutions are quite simple; in the case of Florida, incorporation from the Secretary of State to operate must be sought as for any other type of business and approval must be granted by a state board. In other states the requirements are extensive and complex. The New York State Board of Regents, for example, requires proof of a specified level of capital and operating resources and a formal incorporation of the proposed institution into the Regent's statewide plan for higher education in the state (2:100).

In the view of the investigator, the legal framework for academic policy related to the stated issue in California is unlikely to be changed within 3-5 years. It is likely that the Governor and the Legislature will retain the authority for deciding what postsecondary educational institutions can operate legally within the state. While CPEC appears to be gaining a stronger voice in making recommendations to the Governor and the Legislature, California has a tendency to maintain power at the top, through elected officials.

In the case of private postsecondary education, it also is likely that the Superintendent of Public Instruction will retain his

authority. The position is gained through a statewide election, making his decisions directly accountable to the public.

Legality of Academic Degrees. In California, the Education Code defines what academic degrees will be recognized in public postsecondary education and, to some degree, defines majors within those degrees. Four sections of the Education Code define the legality of academic degrees which will be recognized in the three sectors: the University of California, the California State University and Colleges, and the California Community Colleges.

> The University of California may provide instruction in the liberal arts and sciences and in the professions, including the teaching professions. It shall have exclusive jurisdiction in public higher education over instruction in the profession of law and over graduate instruction in the professions of medicine, dentistry, and veterinary medicine. It has the sole authority in public higher education to award the doctoral degree in all fields of learning, except that it may agree with the California State University and Colleges to award joint doctoral degrees in selected fields. It shall be the primary state-supported academic agency for research (4:4010).
>
> The California State University and Colleges shall have as its primary function the provision of undergraduate instruction and graduate instruction through the master's degree. Presently established two-year programs in agriculture are authorized, but other two-year programs shall be permitted only when mutually agreed upon by the Trustees of the California State University and Colleges and the Board of Governors of the California Community Colleges. The doctoral degree may be awarded jointly with the University of California. . .or jointly with a private institution of postsecondary education accredited by the Western Association of Schools and Colleges and provided the proposed doctoral program is approved by the California Postsecondary Education Commission. Faculty research is authorized to the extent that it is consistent with the primary function of the California State University and Colleges (4:4013-14).
>
> Public community colleges shall offer instruction through but not beyond the second year of college. These institutions may grant the associate in arts and the associate in science degree. Their program may include but shall not be limited to: standard collegiate courses for transfer to other institutions; vocational and technical fields leading to employment; general or liberal arts courses; and community services (4:4015.2-16).

> Courses of instruction and educational programs shall be prepared under the direction of the governing board of each community college district. Such educational programs shall be submitted to the board of governors for approval. . .For the purposes of this section, "educational program" is an organized sequence of courses leading to a degree, a certificate, a diploma, a license, or transfer to another institution of higher education (4:4328.2).

Requirements for issuing or conferring an academic or honorary degree or diploma by private postsecondary education also are defined in the California Education Code. Through the Office of the Superintendent of Public Instruction, the institution must meet one of three requirements: (1) it must be accredited by a national or applicable regional accredting agency recognized by the United States Department of Education, the Western Association of Schools and Colleges, or by the Committee of Bar Examiners for the State of California; or (2) it must be approved by the superintendent to award or issue specific degrees; or (3) it must file certain affidavits with the superintendent, which include affidavits of full disclosure, net assets in the amount of $50,000 located in the State of California, and an annual affidavit listing relevant names, addresses, location of records, etc. (4:5110-11).

Within the California Education Code, it is clear that academic degrees granted by private postsecondary education institutions located outside the state may be authorized by the Superintendent of Public Instruction when the institution meets one of the three requirements. In other states, one of the two principal methods for regulating private postsecondary education is licensure. According to Kaplin, there are three basic types of requirements which represent three different approaches to licensure. A state can license on the basis of: (1) minimum standards, (2) realization of objectives, or (3) honest practice (6:373-4). These criteria closely parallel those required by

California for issuing or conferring an academic or honorary degree or diploma.

With respect to academic degrees granted by public postsecondary education institutions located outside the state, the California Education Code is silent. However, it is clearly unconstitutional for an out-of-state program to be subjected to requirements which are different from and harsher than those a particular state applies to in-state programs (6:379).

In the view of the investigator, the legal framework for academic policy related to the legality of academic degrees for community colleges may be changed within 3-5 years. The California Education Code currently authorizes community colleges to grant the associate in arts and associate in science degrees. There currently is considerable discussion by the Governor and his education aide regarding the mission of the two-year college. They often refer to it as the "junior" college, intimating that the major role--perhaps the only legitimate role--of the community college is standard collegiate courses for transfer to other institutions. Similarly, officials from the University of California and the California State University and Colleges--through representation in CPEC--also are discussing their view that the community college is not transferring enough students to the four-year public sector. One might assume that, as competition for the traditional age college student becomes more fierce, the four-year public sector will exert influence through CPEC, the Governor, and the Legislature that may force the community college to focus on preparing students for transfer as its major legitimate role.

Even if legislation is not passed to change the role of the

community college, the effect of reduced funding for community colleges may change their role. Training in vocational and technical fields leading to employment is more expensive than preparing students for transfer. Yet funding for community colleges is based on the generation of weekly-student-contact-hours, without regard to whether those hours are in vocational and technical fields or in transfer preparation. Some community colleges are discussing the elimination of certain high-cost vocational and technical programs so that they can continue to maintain the same or a greater number of weekly-student-contact-hours in transfer programs at less cost.

Professional Reply

It is the investigator's view that the proper framework for academic policy related to the stated issue in California should be different for state-funded postsecondary education than it should be for independent or proprietary postsecondary education. It appears proper that the Governor and the Legislature should decide the need for and location of new institutions and campuses of public higher education when they are fully-funded by the state. In point of fact, the California Education Code makes special provision for acquisition or construction of nonstate-funded community college institutions, branches, and off-campus centers. The Code states that "proposals for such acquisition or construction shall be reported to and may be reviewed and commented upon by the commission." (4:4026)

When the state is the only source of funding for the community college, as it is in California, it is difficult to balance the state's interest against the interests of the local community and local students.

Were students to pay tuition, or the local community to pay part of the cost of operating the community college, then it could be argued that they should have partial authority for determining what community colleges can operate legally within the state. One of the unique characteristics of the American community college is its mission to be responsive to its local community.

Regarding the legal framework for academic policy for private postsecondary education, it would appear that California falls somewhere between the extremes described by Blocker, et al. Its requirements are less rigid than they are in New York State, and more rigid than they are in Florida. While authority is vested in one person--the Superintendent of Public Instruction--the private institution wishing to issue or confer an academic or honorary degree or diploma in California must meet only one of three relatively straightforward requirements. All of these requirements appear to the investigator to be related to the protection of prospective students.

Special Interests Likely to Engage in Political Action

The question is: with the Marin Community College District and California as specific points of reference, what special interests (educational and non-educational) likely will engage in political action concerning the issue, that is, to change or preserve the current policy framework which guides action concerning the issue at (a) local, (b) state and (c) national and federal levels? Explain how and why.

Relevant Information

The question will be explored in two parts: special interests likely to engage in political action to change or preserve the current

policy framework regarding the legal operation of postsecondary education, and special interests likely to engage in political action to change or preserve the current policy framework regarding the legality of academic degrees.

Legal Operation. According to Blocker, et al, organizations attempt to serve their own self interests, "a behavior which is universal and can be observed in any organization whether voluntary, public, private, philanthropic, governmental, or business." (2:43) If they are to be successful in serving their self interests, however, they must operate from a power base. The most "hypnotic and potent of power sources" is legitimacy, one form of which is appointment to a responsible position. "Government exerts influence through its delegated or elected role, representing the very framework of our society." (2:44)

In California, the major special interests likely to engage in political action to preserve the current policy framework regarding the legal operation of postsecondary education are: the Governor, the Legislature, the California Postsecondary Education Commission, and--in the case of private postsecondary education--the Superintendent of Public Instruction. All of these special interests, except for CPEC, fill elected roles.

Because the Governor and the Legislature will not consider the need for or location of new institutions and campuses of public higher education without a recommendation from CPEC, the composition of CPEC may be worthy of attention. According to the California Education Code, it is composed of fifteen members: one representative of the Regents of the University of California to be designated by the Regents; one representative of the Trustees of the California State University and

Colleges to be designated by the Trustees; one representative of the Board of Governors of the California Community Colleges to be designated by the Board; one representative of the independent California colleges and universities which are accredited by a national or regional association that is recognized by the U.S. Office of Education to be appointed by the Governor; the chair of the Council for Private Post-secondary Educational Institutions; the President of the State Board of Education; three representatives from the general public to be appointed by the Governor; three from the general public to be appointed by the Senate Rules Committee; and three from the general public to be appointed by the Speaker of the Assembly (4:4018). Of the fifteen members, then, four are directly appointed by the Governor.

To determine membership of CPEC indirectly influenced by the Governor, membership of representative groups and method of selection was examined. The Regents of the University of California are composed of seven ex officio, or by virtue or because of an office, members: the Governor, the Lieutenant Governor, the Speaker of the Assembly, the Superintendent of Public Instruction, the president and the vice president of the alumni association of the university and the acting president of the university; and eighteen appointive members appointed by the Governor and approved by a majority of the Senate (4:6011). Of the twenty-five members of the Regents, then, nineteen are appointments of the Governor or the Governor himself.

Of the twenty-four members of the Trustees of the California State University and Colleges, eighteen are appointments of the Governor and one is the Governor himself. Of the fifteen members of the Board of Governors of the California Community Colleges, all fifteen

are appointed by the Governor (4:5048). None of the eighteen members of the Council for Private Postsecondary Education Institutions is appointed by the Governor; however, three of the positions are held, ex officio, by gubernatorial appointees (4:5103). Clearly, then, seven of the fifteen members of CPEC are direct or indirect appointments of the Governor, which makes him a powerful force in determining what public institutions can operate legally within California. The other major player is the Legislature, with the Senate, the Senate Rules Committee, and the Speaker of the Assembly playing key roles in direct and indirect appointments to CPEC.

Were the Marin Community College District to develop a special interest in influencing what public institutions can operate legally within California, the District would need to exert influence on the Governor, its locally-elected legislators, and members of CPEC. Unless CPEC were recommending the establishment of a new institution of public postsecondary education in Marin County, it is unlikely the District would have a special interest in the issue. However, were such a recommendation likely, it is anticipated that a number of special interest groups would form for the purpose of lobbying these three entities. These groups likely would include: faculty, administration, and the board of trustees who would view the proposed institution as competition for state funds and students; employee unions who would view the proposed institution as a threat to state-funded positions in the District; and local businesses, if properly mobilized, who might view the proposed institution as a drain on funds available to the District for operation of training programs in vocational and technical fields leading to employment in local businesses.

Were the Marin Community College District to develop a special interest in influencing what private institutions can operate legally within California, the District would need to exert influence on the Superintendent of Public Instruction. Again, unless the SPI were recommending to the Governor and the Legislature the establishment of a new institution of private postsecondary education in Marin County, it is unlikely the District would have a special interest in the issue. Were such a recommendation likely, it is anticipated that special interest groups would form. Faculty, administration, and trustees would view the proposed institution as competition for students which could lead to reduced enrollment-driven state funding. Employee unions would have a similar point of view. It is unlikely that local businesses could be mobilized for lobbying against the establishment of a private institution, especially if it were a proprietary institution.

> Proprietary institutions. . .have established a power base in many states through the business community by utilizing the potent political appeal of being tax-paying educational organizations rather than being tax supported directly (public institutions) or indirectly (non-profit and tax exempt institutions) (2:46).

In neither case is it likely that students would form a strong lobbying force against the establishment of a new public or private institution of postsecondary education. Students likely would view the establishment of a new institution as broadening their choices.

Legality of Academic Degrees. In California, the authority for determining which level of academic degrees may be granted by public postsecondary education is defined in the Education Code. Were the Marin Community College District to develop a special interest in what level of academic degree might be granted by another public postsecondary educational institution, the District would need to exert

influence on the State Legislature, either through its locally-elected legislators or others throughout the state. If the University of California Regents, or the California State University and Colleges Trustees, or the California Postsecondary Education Commission were to develop an interest in UC or CSUC's being able to grant the associate in arts or associate in science degrees--beyond the two-year degree in agriculture already allowed CSUC's in the Education Code--then strong special interest groups surely would form among community colleges throughout the state.

In this event, statewide associations for community colleges likely would lead the lobbying effort: California Community College Trustees (CCCT), California Association of Community Colleges (CACC), California Community Colleges Chief Executive Officers (CCCEO), the State Chancellor's Office for Community Colleges, statewide faculty and union associations, and other employee associations and unions.

Were private postsecondary education interested in granting the associate in arts or associate in science degrees, the Marin Community College District would have great difficulty influencing the decision of the Superintendent of Public Instruction if the institution met one of the three requirements defined in the Education Code. There would be no discernible difference between institutions located within or outside the state in meeting one of the requirements. Since the Superintendent of Public Instruction's primary responsibility is to elementary and secondary education, and since elementary and secondary education would not be threatened by a private institution granting associate-level degrees, it is unlikely that the Marin Community College could mobilize local County Office of Education support for a joint

lobbying effort.

Because virtually all of the authority for changing or preserving the current policy framework which guides action concerning the issue resides primarily at the state level, and secondarily at the local level, it is unlikely that the Marin Community College District would engage in political action regarding the issue at the national or federal level. A possible exception might be if the District wanted to challenge the granting of associate degrees by an out-of-state institution. In this case, it could seek court action if it believed that the out-of-state program was being subjected to requirements which were different (e.g., less harsh) than those applied to its own programs. This course of action ultimately could lead to the U.S. Supreme Court.

Professional Reply

It is the investigator's view that the most significant change California Community Colleges could make to enhance their special interests would be to gain more than one voice on the fifteen-member California Postsecondary Education Commission. The fact that California Community Colleges serve 1.4 million students--25 percent of all community college students in the nation--yet have one vote on CPEC might be viewed as an indication of their lack of unity in lobbying efforts.

Were the one hundred and seven community colleges in the State of California able to unite in lobbying efforts, they likely could engage in significant political action should the other sectors of public postsecondary education express an interest in granting associate in arts of associate in science degrees.

Regarding private postsecondary education, it is unlikely that

community colleges could mobilize special interest groups. With total authority vested in one person--the Superintendent of Public Instruction--the only way in which change could take place would be through community colleges joining forces with elementary and secondary education to exert influence on the SPI, or through lobbying the Legislature to change the Education Code. In the former case, elementary and postsecondary education would have no self-interest in joining forces with community colleges; they are not competing with private postsecondary education. In the latter case, the Legislature likely would view private postsecondary education as easing the burden of the state in providing public postsecondary education.

Economics of American Postsecondary Education

The question is: relate the answers to the above questions to the current and likely near future status of the economics of American postsecondary education; deal with both micro- and macro-economic factors.

Relevant Information

The question will be explored in two parts. The first part will focus on the current and likely near future status of the economics of American postsecondary education as it relates to whether or not the state should have the sole legal and official power to determine what institutions can operate legally within a state. The second part will focus on the status of economics as it relates to whether or not the state should have the sole legal and official power to determine the legality of recognition of academic degrees in the state regardless of the location of the institution granting the degree.

Legal Operation. A number of macro-economic factors relate to whether or not the state should have the sole legal and official power to determine what public and private institutions can operate legally within a state. Two major factors to be considered in the production, distribution, and consumption of American postsecondary education are: (1) supply and demand, and (2) cost versus benefit.

Regarding the operation of public institutions which are state-funded, the state effectively eliminates the factor of supply and demand in favor of the cost versus benefit factor when it determines which institutions can operate legally within the state. Wattenbarger and Cage (10) described the shift from an historic pattern of local financing to increased state financing of community colleges. They described two reasons why the shift was necessary.

> First, because of the limits in local sources of tax revenue (mostly local property taxes), local funding cannot meet the demands of increasing enrollments, of increasing services, of comprehensive programming, and of easy access.
>
> Second, the small geographical size of local districts causes difficulties in insuring equal access to citizens, providing equity between funding sources and receipt of benefits, and insuring minimum standards for producing quality education (10:29).

When public institutions receive funding from a variety of sources--the local community through property taxes, students through tuition and fees, and businesses and individuals through philanthropy--then one might argue that decisions should be jointly shared among those economic constituencies. By providing significant financial aid to students, the federal government also might be a partner in such decisions.

However, the federal government has no constitutional provision for being a party to such decisions. And one could argue that the

local community, students, businesses, and individuals all are represented by those they help elect to the state offices.

The likely near future status of the economics of American community colleges, according to Wattenbarger and Cage, is for increased state support (10:29). However, if California is the bellwether state that Naisbitt claims it to be (9:6), community colleges can expect decreased state support and "caps" on enrollments. As viewed by Bender and Martorana, this may force public institutions to a "posture of privilege and restricted access." (1:103) So quite beyond the question of legal and official power of the state to determine what public institutions can operate legally within a state, the state's growing funding authority likely will become a major force in determining which institutions will continue operating and who they will serve.

Regarding the operation of private institutions, the state's less restrictive use of its power to determine which ones will operate appears to place more emphasis on the principle of supply and demand, that students will "naturally gravitate to the institutions with the best programs." (2:97)

A discussion of the micro-economic factors related to the issue is based on the overall assumption that the principles of supply and demand, or cost versus benefit, do not come into play until after the state has determined that a particular institution can operate legally within the state.

In theory, the better an institution can account for the spending of previous funds gained either from public or private sources, the better its chances for increased funding. In practice, public institutions are most often viewed as a group--the state university,

or state colleges and universities, or community colleges--and funded according to some formula (1:106). In 1974, only seven states reported that support funds for community colleges were appropriated by the legislature without regard to any formula, and another eight states reported that support requests were worked out upon established bases which may be similar to a formula approach, but that final appropriations were not determined on that basis (10:75-76). The other thirty-five states used some kind of formula for funding community colleges.

Some states have experimented with other than formula funding, such as incremental funding, zero base budgeting, and performance budgeting. According to Wildavasky, ranking zero base budgeting decision packages above the base seemed indistinguishable from incremental budgeting (11:209).

In practice, then, institutional performance in providing certain benefits for certain costs has little if any bearing on how much money a particular institution receives from the state, except as institutional performance measures are built into the formula. When measures are built in, they focus on resource inputs, not student outcomes except in numbers of students served. And, as Bowen has pointed out, each institution spends all it raises.

> The higher-educational system itself provides no guidance of a kind that weighs costs and benefits in terms of the public interest. The duty of setting limits thus falls, by default, upon those who provide the money, mostly legislators and students and their families (5:19).

Once the institution receives its funding, micro-economic factors at the institutional level come into play in determining how the funding is allocated to the various units of the institution. As noted by Bender and Martorana, the major portion of the budget of any

institution of postsecondary education is directed toward salaries and fringe benefits (1:115). In California, state law requires that at least fifty percent of a community college's funding must be spent on direct costs of classroom instruction, i.e., teaching faculty salaries and fringe benefits. As state funding has decreased, some community colleges in California have made all their cuts in the non-salary and part-time salary categories rather than reduce full-time staff. In some cases, full-time salary and fringe benefits now account for close to ninety percent of the budget. The paradox is that while state law requires that all part-time faculty in a discipline be reduced before full-time faculty in that discipline are reduced, the part-time faculty may be generating more student enrollment than the full-time faculty, and at a lesser cost.

The net effect of the micro-economics decisions made at the institutional level may well be that the institution loses its capacity to operate by placing itself into a downward spiral: less state funding based on a student-enrollment-driven formula, resulting in reduced staff and increased average costs.

Micro-economic factors relating to the current and likely near future status of the economics of American private postsecondary education focus on the student's ability to pay and the ability of the private sector to attract private philanthropy. To some extent, the student's ability to pay is dependent on federal financial aid. And, should public institutions be "capped" in enrollment, private institutions may accomodate the policy of access and right (1:103).

Because the private institutions of postsecondary education appear to have greater freedom in how they spend the money raised by

tuition or philanthropy, micro-economic factors at the institutional level may yield decisions more closely related to the marketplace.

Legality of Academic Degrees. A number of macro-economic factors relate to whether or not the state should have the sole legal and official power to determine the legality of recognition of academic degrees in the state regardless of the location of the institution granting the degree. However it is determined which institutions can operate within the state, academic degrees are subject to supply and demand in the marketplace. According to Bender and Martorana, it is accepted that "students are often most knowledgeable about overcrowded fields as well as those that offer growing opportunities for job entry and employment." (1:95) When the state determines which academic degrees will be legally recognized, unless it bases its determination on accurate information about the marketplace, it risks interfering with supply and demand.

When an institution from out of state wishes to offer an academic degree, one might assume that it has assessed the market in the state in which it wishes to offer the degree and has determined that the need for a particular academic degree is not being fully met by in-state institutions. Otherwise, students would not enroll in the out-of-state program.

Professional Reply

The investigator philosophically is committed to the concept of supply and demand in the marketplace being the major factor in determining which institutions of postsecondary education should be allowed to operate in a state and which academic degrees should be legally

recognized. Even so, the investigator acknowledges that each state, and each institution within that state, has a self interest, just as each student has a self interest. Economic factors often are the driving forces for the state, the institution, and the student. To the extent a public institution can document monetary and non-monetary benefits to the state and its other funding agencies for its establishment and continued existence, it likely will be in tune with macro- and micro-economic factors and continue to receive funding. To the extent a private institution can document monetary and non-monetary benefits to the student and private donors, it also likely will be in tune with macro- and micro-economic factors and continue to receive funding.

Consequences for Financing of Postsecondary Education

The question is: assume the stated major policy issue were to be decided against the state agencies, i.e., a change from the present pattern, what consequences do you see resulting in the way American postsecondary education is financed? Why?

Relevant Information

One of the major current issues in American postsecondary education is the issue of who will pay for it (2:198). This will continue to be an issue regardless of whether state agencies continue to determine what postsecondary educational institutions can operate legally within a state, or to determine the legality of recognition of academic degrees in the state regardless of the location of the institution granting the degree.

> All of postsecondary education is dependent for its sustenance on public funds (federal, state, and local), student fees and tuition, and philanthropy, both corporate and individual. The

> question of who will pay divides itself into two primary questions: How much will be provided and, politically more important, how will the various shares of support be distributed? The first question--What is a reasonable cost for educating a student?--is amenable to solution through systematic analysis.
>
> The second question regarding the distribution of costs among the various sources is a constant political controversy, for this question intrudes directly into strongly held ideological views and economic self-interest (2:198)

If state agencies were no longer in a position to make decisions about the legal operation of postsecondary educational institutions within their states, or the legal status of academic degrees granted by in-state or out-of-state institutions, one might expect that states would be less willing to fund public postsecondary education because they would be less able to influence it in favor of their self-interest.

The first question raised by Blocker, et al--namely, what is a reasonable cost for educating a student?--while perhaps amenable to solution through systematic analysis, might not be. Based on historical data, Bowen's research indicated that "costs per student unit for individual colleges and universities are determined by the amount of money they can raise for educational purposes relative to the number they are serving." (3:26)

The second question raised--namely, what is a reasonable distribution of costs among the various sources?--will continue to be "controversial in a number of dimensions." (2:198) Some of the sources identified by Blocker, et al, include: local, state, and federal governmental units, and students. While corporate and individual philanthropy provides significant support to some segments of postsecondary education, the largest share is provided to the independent colleges and universities.

The two major struggles likely will occur among local, state,

and federal governmental units regarding what each considers its fair share, and between these tax-collecting units as a whole, and students, concerning an equitable distribution of costs. The struggles over who will pay for postsecondary education likely will center around a second issue, i.e., who will benefit, or even, who will benefit the most? When one considers both monetary and non-monetary benefits, the second issue quickly becomes complex and laden with variables that are difficult, if not impossible to discuss analytically.

The current situation is that the federal government provides its major support of both public and private postsecondary education through direct financial aid to students. Despite efforts of the current administration to reduce financial aid, Congress continues to fund it at increasing levels. The current trend of state and local support for public postsecondary education is toward decreasing appropriations, or not increasing appropriations to keep pace with inflation and demand. The current trend for student support of postsecondary education is toward increased tuition and fees. Thus, the federal share appears to be holding steady, the state and local share appears to be decreasing, and the student's share appears to be increasing--either out of pocket or through federal financial aid.

Were the state to lose the legal and official power to determine what postsecondary educational institutions can operate legally within a state, and to determine the legality of recognition of academic degrees in the state, it likely would mean that the state's share of support for public postsecondary education would decrease even further. The other two major sources--the federal government and students--likely would increase their shares.

The implications for this shift away from state support of post-secondary education toward federal and student support of post-secondary education are profound. A question raised by Bender and Martorana assumes major significance.

> What will be the impact of public and private higher education in 1990 if state appropriations continue to decline while federal programs for student financial aid place purchasing power in the hands of more students than allowed by the enrollment caps established in the public sector? Will the private institutions accomodate the policy of access and right while the public institutions shift to a posture of privilege and restricted access? (1:103)

Some would argue that "society benefits as much or more from an educated populace than does the individual person and therefore should bear a comparable cost of postsecondary education." (1:105) Others would argue that providing sufficient financial aid from the federal government or other sources to the individual student allows the student to choose from among the various sectors of postsecondary education, and that the student will "naturally gravitate to the institutions with the best programs." (1:97)

It is likely that, if state support of public postsecondary education continues to decrease, tuition will be increased. Yet recent research indicates that "current federal and state student aid programs are not adequate to meet the needs of students from either lower-income or middle-income families. Inflation has eroded the family ability to pay for college." (8:13)

Professional Reply

Politically, legally, and economically, the United States as a whole, and individual states, have long demonstrated a commitment to equal access to diverse institutions of private and public postsecondary education. The states have the greatest reservoir of legal authority

over postsecondary education. They also have tended to pay a greater share of its costs than federal and local governments, and students. There may or may not be a cause and effect relationship between these two facts. If there were, and if states were to lose legal authority over postsecondary education, they likely would decrease the share they pay of its costs. While it may not be philosophically acceptable that 'he who pays the piper calls the tune,' the funding trends appear to demonstrate that 'he who calls the tune pays the piper."

The question of who should be in charge of critical decisions regarding postsecondary education--federal, state, and local governments, postsecondary education itself, or students--is a complex issue. If those who fund postsecondary education are unwilling to let postsecondary education itself be 'in charge' of decisions regarding its operation and academic degrees, it likely is the result of postsecondary education's inability to articulate the true outcomes of postsecondary education "in the form of learning and personal development of students." (5:19)

Were the product of postsecondary education--the monetary and nonmonetary benefits--easy to measure and articulate to those who pay its costs, then those who pay its costs likely would be willing to delegate more authority for making decisions to the enterprise as a whole, and to individual institutions within that enterprise.

Professional Conclusions

The question is: state your own professional conclusions about the major policy issue posed at the start of this exam and tell how you support them.

Public Postsecondary Education

The investigator views the proper role of the state in making decisions regarding public postsecondary education as different than its role in making decisions regarding independent or proprietary postsecondary education.

When institutions of postsecondary education receive the major share of their funding from the state, then it seems proper that the state should decide which public institutions can operate within that state, and also which sectors of public education can legitimately offer what level of academic degrees: certificate, associate, baccalaureate, masters, or doctorate. However, it does not seem appropriate for the state to decide what academic majors should be offered within the various levels of degrees. Those "closest to the scene" would seem to be in a better position to determine academic majors according to the need of the marketplace. The tendency, however, is for an institution to determine academic majors according to status quo: the credentials and teaching preferences of existing faculty.

Once an institution of postsecondary education has been authorized by the state and a determination made by the state as to the level of academic degree or degrees it can offer, then it is incumbent upon that institution to demonstrate monetary and non-monetary benefits to the state in order that it may receive adequate state support. This would include an obligation to modify its academic majors to reflect changes in the marketplace. Admittedly, this task is challenging at best.

> Postsecondary education has many of the characteristics found in all service organizations: outputs which are difficult to measure; professionalism with its relative isolation from the external environment; built-in resistance to change; and limited

> adapting mechanisms and coping devices with which to respond to changing conditions (1:194-5).

At least in part because of these characteristics, public institutions of postsecondary education have provided "no guidance of a kind that weighs costs and benefits in terms of the public interest. The duty of setting limits thus falls, by default, upon those who provide the money, mostly legislators and students and their families." (5:19) In the case of public postsecondary education, the limits mostly are set by state legislators and state agencies.

Private Postsecondary Education

The proper role of the state in making decisions regarding independent and proprietary postsecondary education would seem to be more limited. Private postsecondary education receives its major share of institutional funding from the private sector, although it benefits from the financial aid students receive from the federal government. The proper role of the state could be limited to that of ensuring consumer protection, e.g., ensuring that the private institution does not misrepresent itself in any way and that it has sufficient assets to assure the continuation of a program of study in which students are enrolled. In essence, its role would be similar to a 'better business bureau.' In this regard, the investigator agrees with the September 1979 report from the Education Commission of the States.

> All states should establish minimum standards for authorization and continued operation of all postsecondary institutions that will protect prospective students from fradulent practices and educationally ineffective programs (7:138).

The statement also recommended that such standards be applied to off-campus educational programs as well as to the in-state operations of institutions licensed in other states.

Even if a state does not perceive itself as deriving either monetary or non-monetary benefits from allowing an out-of-state institution to grant academic degrees within its borders, it may not subject the out-of-state program to requirements which are different from and harsher than those it applies to its own in-state programs (6:379).

Given all the interacting trends in the politics, law, economics, and financing of American postsecondary education, the investigator concludes that:

1. When the state is the major funding source of an institution of postsecondary education then it properly may delegate to a state agency the sole legal and official power to determine if that state-funded institution can operate legally in the state, and to determine the legality of recognition of academic degrees to be granted by that state-funded institution. However, the institution itself should determine academic majors.
2. When the state is not the major funding source of an institution of postsecondary education--as in the case of independent and proprietary colleges--then its authority should be more limited. A state agency's authority should be limited to ensuring the protection of prospective students.
3. When the state is not the major funding source for an out-of-state institution of postsecondary education--whether public or private--then it should limit its delegation of authority to a state agency to subjecting the out-of-state program to requirements which are no different from nor harsher than those it applies to in-state programs.

References Cited

1. Bender, Louis W., and S. V. Martorana. The Politics, Law, and Economics of Higher Education. Fort Lauderdale: Nova University Press, 1980.

2. Blocker, Clyde E., Louis W. Bender, and S. V. Martorana. The Political Terrain of American Postsecondary Education. Fort Lauderdale: Nova University Press, 1975.

3. Bowen, Howard R. The Costs of Higher Education. San Francisco: Jossey Bass Publishers, 1980.

4. California Education Code Service. 2nd ed. Emeryville, CA: USA Publishing Comoany, Inc., 1979.

5. Chronicle of Higher Education. 21:15, December 1, 1980.

6. Kaplin, William A. The Law of Higher Education. San Francisco: Jossey-Bass Publishers, 1978.

7. Kaplin, William A. The Law of Higher Education. San Francisco: Jossey-Bass Publishers, 1980.

8. Low Tuition Fact Book. Washington: American Council on Education, 1983.

9. Naisbitt, John. Megatrends. New York: Warner Books, Inc., 1982.

10. Wattenbarger, James L., and Bob N. Cage. More Money for More Opportunity. San Francisco: Jossey-Bass Publishers, 1974.

11. Wildavasky, Aaron. The Politics of the Bugetary Process. 3rd ed. Boston: Little, Brown and Company, 1979.

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